Council Regulation (EC) No 1212/2005 of 25 July 2005 imposing a definitive anti-dumping duty on imports of certain castings originating in the People's Republic of China

COUNCIL REGULATION (EC) No 1212/2005

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96[(1)] of 22 December 1995 on protection against dumped imports from countries not members of the European Community, (the 'basic Regulation') and in particular Article 9 thereof,

Having regard to the proposal submitted by the Commission after having consulted the Advisory Committee,

Whereas:

A. PROCEDURE

(1) On 30 April 2004, the Commission announced by way of a notice published in the *Official Journal of the European Union*[(2)], the initiation of an anti-dumping proceeding concerning imports of certain castings originating in the People's Republic of China ('PRC').

(2) The proceeding was initiated following a complaint lodged in March 2004 by EUROFONTE ('the complainant') on behalf of producers representing a major proportion, in this case more than 50 %, of the total Community production of castings. The complaint contained *prima facie* evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.

(3) The Commission officially advised the complainant, the Community producers mentioned in the complaint, any other known Community producers, the authorities of the PRC, the exporting producers, importers, as well as the associations known to be concerned of the initiation of the investigation. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time-limit set in the notice of initiation.

(4) A number of Community producers represented by the applicant, other cooperating Community producers, exporting producers, importers, suppliers and user associations made their views known. All interested parties who so requested within

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the above time-limit and showed that there were particular reasons why they should be heard were granted the opportunity to be heard.

1. Sampling, market economy treatment and individual treatment

(5) In view of the large number of exporting producers, Community producers and importers involved in the investigation, the application of sampling techniques was envisaged in the notice of initiation, in accordance with Article 17 of the basic Regulation.

(6) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, exporting producers and representatives acting on their behalf, Community producers and importers were requested to make themselves known and to provide information as specified in the notice of initiation. The Commission also contacted known associations of exporting producers and the authorities of the PRC. These parties raised no objections to the use of sampling.

(7) In total, 33 exporters/producers in the PRC, 24 Community producers and 15 importers replied to the sampling questionnaire within the time-limits and provided the requested information.

(8) In order to allow exporting producers in the PRC to submit a claim for market economy treatment (‘MET’) or individual treatment (‘IT’), if they so wished, the Commission also sent MET and IT claim forms to the Chinese companies known to be concerned, and to all the other companies that made themselves known within the deadlines set out in the notice of initiation. In this respect, 21 companies requested MET pursuant to Article 2(7) of the basic Regulation, and 3 companies requested only IT pursuant to Article 9(5) of the basic Regulation.

(9) The selection of the sample for the exporting producers was made after consultation of the PRC cooperating exporting producers and of the authorities of the PRC. The sample of the exporting producers was established on the basis of the largest representative volume of exports to the Community (either examined individually or examined as a group of related companies), which could reasonably be investigated within the time available and on whether the companies intended to apply for Market Economy Treatment. Only companies that intended to apply for Market Economy Treatment were included in the sample, since in an economy in transition, normal value for other companies is established on the basis of prices or constructed normal value of an analogue third country. On this basis, a representative sample of seven exporting producers was selected. The seven companies sampled represented, according to the replies to the sampling exercise, around 50 % of all cooperating producers' exports.

(10) Regarding the Community producers, in accordance with 17(1) of the basic Regulation, the sample was selected after consultation of the cooperating producers and with their consent on the basis of the largest representative volume of production and sales within the Community. As a result, five Community producers were selected in the sample. The Commission sent questionnaires to the five companies selected, and four complete replies were received within the set time-limits. One of these companies

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submitted its reply outside the extended time-limits set for this purpose and was therefore excluded from the proceeding.

(11) As for the importers, in accordance with 17(1) of the basic Regulation, the sample was selected after consultation of the cooperating importers and with their consent on the basis primarily of the largest representative imported volume into the Community and secondarily of the geographical distribution. Out of the 15 companies, two were found to have related manufacturing parties in the PRC and were excluded from the sampling, as they should be investigated in the framework of the sampling for the exporting producers. As a result, four importers were selected, out of which three submitted complete questionnaire replies.

(12) The Commission sought and verified all information it deemed necessary for the purpose of a preliminary determination of dumping, resultant injury and Community interest. Verification visits were carried out at the premises of the following sampled companies:

(a) *Community producers*
- — Saint Gobain PAM, France,
- — Saint Gobain, UK,
- — Norford France and to its related traders Norinco, France and Norinco, UK,
- — Cavanagh, Ireland,
- — Fudiciones Odena, Spain,

(b) *Exporting producers in the PRC*
- — Zibo Benito Metalwork Co. Ltd.;
- — Benito Tianjin Metal products Co. Ltd.;
- — Qingdao Benito Metal Products Co. Ltd.;
- — Shandong Huijin Stock Co. Ltd.;
- — Shijiazhuang Transun Metal Products Co. Ltd.;
- — Changan Cast Limited Company of Yixian Hebei;
- — Shanxi Yuansheng Casting and Forging Industrial Co. Ltd.

(c) *Importers in the Community related to exporting producers*
- — Fundicio Ductil Benito, S.L,
- — Mario Cirino Pomicino S.p.A;

(d) *Unrelated importers in the Community*
- — Hydrotec, Germany,
- — Peter Savage, UK.

(13) In light of the need to establish a normal value for exporting producers in the PRC to which MET might not be granted, a verification visit to establish normal value on the basis of data from an analogue country took place at the premises of the following company:

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— Carnation industries Ltd., India.

(14) The investigation of dumping and injury covered the period from 1 April 2003 to 31 March 2004 ('investigation period' or 'IP'). The examination of trends relevant for the assessment of injury covered the period from January 2000 to the end of the IP ('period under examination').

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. General

(15) Castings are generally comprised of a frame, which is embedded in the ground, and either a cover or a grate, which sits flush with any surface used by pedestrians and/or vehicles and which directly withstand the weight and impact of pedestrian and/or vehicle traffic. The frame is placed directly on top of a concrete or brick chamber top. It is used to give access and/or gain entry to an underground chamber.

(16) Castings serve the purpose of covering an underground chamber and must bear load resistance of motored vehicles and/or pedestrian traffic. The cover or grate is required to remain secure within the frame in order to avoid noise pollution, human injury and vehicle damage. Castings must allow for safe and easy access to the underground chamber, may it be for the purpose of man entry or visual inspection.

(17) Castings vary in shape and dimensions. They are designed to match the dimensions of the chamber which they cover and provide access to. The frames of the product are normally circular, square or rectangular. Cover and grates are available in any shape including but not limited to triangular, circular, square or rectangular.

(18) Castings are made of grey or ductile iron. They are produced from varying amounts of steel scrap, coke, pig iron, carbon dust, limestone, ferro-silicon and magnesium dependent upon the manufacturing process and the type of end product, i.e. ductile or grey. There are two methods used to melt the iron during the production of castings, i.e. using either an electric furnace or a cupola. The production process is similar for castings made out of grey or ductile iron. The main difference in the ductile production process is that magnesium is added to the carbon in the iron to change it from a flake form to sphericoidal structure, while this is not done for grey iron. Once the melting process is complete, the melted iron is either hand poured or mechanically poured into a mould.

2. Product concerned

(19) The product concerned is certain articles of non-malleable cast iron of a kind used to cover and/or give access to ground or sub-surface systems, and parts thereof, whether or not machined, coated or painted or fitted with other materials originating in the PRC ('the product concerned'), normally declared within CN codes 7325 10 50 and 7325 10 92 and occasionally declared within CN code 7325 10 99. These CN codes correspond to the different presentations of the product (including manhole covers, gully tops and surface boxes). All these presentations were found to be sufficiently similar for them to constitute a single product for the purpose of the proceeding. It

should be noted that sub-surface fire hydrants are deemed materially different from a surface box, due to their use and construction, and are therefore not considered the product concerned.

(20) The production of castings in the PRC uses predominantly cupolas, whilst the Community industry predominantly uses electric furnaces during the melting process. Further, the production process in the PRC differs to that of the EU in that producers in the PRC use mainly hand pouring whereas the EU producers employ machine pouring. Castings are made of grey or ductile iron. They are produced from varying amounts of steel scrap, coke, pig iron, carbon dust, limestone, ferro-silicon and magnesium dependent upon the manufacturing process and the type of end product, i.e. ductile or grey. There are two methods used to melt the iron during the production of castings, i.e. using either an electric furnace or a cupola. The production process is similar for castings made out of grey or ductile iron. The main difference in the ductile production process is that magnesium is added to the carbon in the iron to change it from a flake form to sphericoidal structure, while this is not done for grey iron. Once the melting process is complete, the melted iron is either hand poured or mechanically poured into a mould. Both grey and ductile castings are produced in the PRC.

(21) The differences between grey and ductile iron are that grey iron is made of flake graphite; this produces a more rigid material and ultimately mass secures the casting in place. Ductile iron is spheroidal graphite producing a more flexible product which has more ergonomic features but needs to be secured in place by a locking device.

(22) The investigation has shown, as mentioned above, that all types of castings despite the differences in terms of grey or ductile iron, have the same basic physical, chemical and technical characteristics, they are basically used for the same purposes and can be regarded as different types of the same product.

(23) Therefore, for the purpose of this investigation the product concerned is castings, as described in the general part, originating in the PRC.

3. Like product

(24) No differences were found between the product concerned and castings produced and sold in India, which served as analogue country for the purpose of establishing normal value with respect of the PRC.

(25) No differences were found between the product concerned and the castings produced and sold in the Community by the Community industry.

(26) Certain parties argued that castings produced by the Community industry and sold on the Community market were not alike to the product concerned. They claimed in particular that norms used at European level are specified by EN124 standards and that national norms cover EN124 but usually stipulate further details thus creating distinct differences between products sold on each national market. Additionally certain parties claimed in particular that they distribute the so-called gatic product, a commercial alternative to standard road covers which is used in a discrete niche market where engineering project specifications demand high performance standards. They argued